

Chapter Trans 138

DEALER FACILITIES AND RECORDS

Trans 138.01	Purpose and scope	Trans 138.05	Auction dealers
Trans 138.02	Definitions	Trans 138.06	Business sign
Trans 138.03	Dealer business facilities	Trans 138.07	Lease agreement
Trans 138.04	Records kept	Trans 138.08	Temporary sales locations

Note: Chapter MVD 13 as it existed on July 31, 1981 was renumbered to be chapter Trans 138 effective August 1, 1981.

**Trans 138.01 Purpose and scope.** (1) As authorized by ss. 110.06, 218.01 (5) and 227.014, Stats., the purpose of this chapter is to administratively interpret ss. 218.01 (2) (d)1., 218.01 (2a), 218.01 (3) (a)30, 218.01 (3) (bf) and (d), 218.01 (7a), 218.32 (4) (c), 341.51 (3) and 342.16 (1m) and (2), Stats., relating to motor vehicle dealer, motor vehicle wholesale, and motor vehicle auction dealer facilities and records.

(2) This chapter pertains to any person applying for or holding a Wisconsin motor vehicle dealer, motor vehicle wholesale dealer, or motor vehicle auction dealer license.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (1) and (2), Register, October, 1984, No. 346, eff. 11-1-84.

**Trans 138.02 Definitions.** (1) "Department" means the Wisconsin department of transportation.

(2) "Perfect or case bound" means a book that is permanently bound by gluing, stitching or both.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81.

**Trans 138.03 Dealer business facilities.** (1) Business facilities required to be provided and maintained by motor vehicle dealers are:

(a) A permanent building wherein there are facilities for:

1. A business office to maintain the books, records, and files necessary to conduct business. The required business office may be established within a residence if it is directly accessible to an outside entrance and is used primarily for conducting such business.

2. A minimum 12 x 20 foot area accessible for automobile display, pre-sale preparation, or repair purposes. Motorcycle dealers who do not also sell automobiles shall provide an area of sufficient size to display, prepare, or repair at least 3 units. This indoor area may be established within a residential building if directly accessible by a separate outside entrance and used only for the purposes described in this subdivision.

3. A repair shop, or a service agreement with a nearby repair shop, where there are repair tools, repair equipment and personnel to service such vehicles. Any service agreement shall be on the form provided by the department.

(b) A vehicle display lot adjacent to the business office, unless all vehicles offered for sale are displayed within the business building.

Register, October, 1984, No. 346

(c) The business premises which provide all required facilities shall comply with local zoning, building code and permit requirements.

(2) Motor vehicle wholesalers of used vehicles are subject to requirements of sub. (1) (a) 1, and pars. (b) and (c).

History: Cr. Register, May, 1966, No. 125, eff. 6-1-66; am. (1), r. and recr. (2), r. (3), Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.01 and r. and recr. Register, July, 1981, No. 307, eff. 8-1-81; emerg. am. (1) (b), eff. 1-13-83; am. (1) (b), r. (2), renum. (3) to be (2), Register, October, 1984, No. 346, eff. 11-1-84.

**Trans 138.04 Records kept.** The minimum of books and records required to be kept and maintained at the licensed business premises by motor vehicle dealers and used motor vehicle wholesalers under ss. 218.01 (3) (bf) and (d) and 342.16 (2), Stats., shall include:

(1) Motor vehicle dealers:

(a) As evidence of ownership, title for each used vehicle owned and offered for sale and MSO for each new vehicle owned and offered for sale. If a manufacturer or lending institution is holding the title or MSO to ensure payment at time of sale, the dealer shall have for each such vehicle either a factory invoice, a completed dealer reassignment form, or a purchase contract evidencing trade-in or purchase.

(b) Written consignment agreement between owner and dealer for each vehicle owned by an individual and offered for sale by such dealer. Consignments between dealers and wholesalers are prohibited. Such agreement shall contain:

1. Date of consignment;
2. Name of consignor and consignee;
3. Description of vehicle including year, make, and identification number;
4. Terms of agreement including duration of agreement, agreed upon selling price, and amount of sales commission;
5. A statement by the owner that either the vehicle is clear of any liens, or the amount of any outstanding lien balance; and
6. Signatures by the vehicle owner and selling dealer.

(c) Vehicle general condition disclosure statements, as required by s. Trans 139.04 (4).

(d) Odometer statement from prior owner and odometer statement to subsequent purchaser, as required by s. Trans 139.04 (7).

(e) Original or copy of motor vehicle purchase contracts, as required by s. Trans 139.05, purchase orders and invoices. Copy of MV1 Wisconsin title and registration application forms completed for each vehicle purchaser as additional evidence of sale and information regarding collection of sales tax and Wisconsin title and registration fees, when applicable.

(f) Records of every used vehicle (including executive and demonstrator vehicles) bought, sold, exchanged, or consigned shall be kept in a permanently bound (case or perfect bound) book containing consecutively pre-numbered pages with horizontal line ruling. Initial purchase entries

Register, October, 1984, No. 346

shall be made immediately as each vehicle is acquired and sales information entered on same line at subsequent time of sale. All entries shall be consecutively entered in ink and be legible. No blank horizontal lines shall be allowed. Vertical dividing lines shall be provided, and may be manually drawn, to divide the following information as shown:

Date Acquired	Acquired From Name & Address	Year-Make-ID	Date Sold or Disposed of	Disposed of or Sold to Name & Address
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(g) Such used vehicle record book shall be maintained for 5 years, as required by s. 342.16, Stats., and all other required records shall be maintained for a period of 4 years from the date of sale, including copies of factory invoices, dealer reassignment forms, consignment agreements, purchase contracts, MVI Wisconsin title and registration applications, used motor vehicle general condition disclosure statements, prior owner odometer statements and dealer's subsequent odometer statements. Such records shall be kept in the place of business during business hours and shall be open to inspection by a representative of the department during reasonable business hours.

(2) Motor vehicle wholesalers (used vehicles), items included in sub. (1) (a), (d), (f) and (g) as limited to used vehicle record book, invoices, dealer reassignment forms, prior owner odometer statements and wholesaler's subsequent odometer statements.

History: Cr. Register, May, 1966, No. 125, eff. 6-1-66; r. and recr. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.02 and am., Register, July, 1981, No. 307, eff. 8-1-81; am. (1) (c) to (e), Register, December, 1982, No. 324, eff. 1-1-83; am. (intro.) (1) (b) 5. and 6., r. (1) (b) r. and (2), renum. (3) to be (2), Register, October, 1984, No. 346, eff. 11-1-84.

**Trans 138.05 Auction dealers.** Motor vehicle wholesale auction dealers shall:

(1) For each vehicle offered for sale, either require the consigning dealer deposit clear title or furnish title insurance at time of sale.

(2) Prominently display the selling dealer's name and address, and state in which the vehicle is titled, on each vehicle offered for sale, prior to each vehicle entering the auction sale building. Recommended methods are either affixing the information on the side window by grease pencil, or entering the information on a card plainly visible through either the windshield or side window.

(3) Retain a copy of a properly completed, signed wholesale auction dealer reassignment form for each vehicle sold, and furnish 2 copies to the purchasing dealer and 1 copy to the selling dealer.

(4) For each auction sale, maintain a complete listing of each vehicle offered for sale, including:

- (a) Date of sale;
- (b) Consigning dealer;
- (c) Vehicle year, make and ID number; and
- (d) Purchasing dealer.

(5) Rescind the vehicle sale transaction if unable to furnish clear title to the purchasing dealer within 12 calendar days following date of sale, if so requested by the purchasing dealer.

History: Cf. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.03 and am. Register, July, 1981, No. 307, eff. 8-1-81.

**Trans 138.06 Business sign.** All motor vehicle dealers, motor vehicle wholesalers and motor vehicle wholesale auction dealers shall provide an exterior business sign in compliance with s. 100.18 (5), Stats.

History: Cr. Register, May, 1966, No. 125, eff. 6-1-66; renum. from MVD 13.03 and am. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.04, Register, July, 1981, No. 307, eff. 8-1-81; am. Register, October, 1984, No. 346, eff. 11-1-84.

**Trans 138.07 Lease agreement.** (1) Motor vehicle dealers shall furnish a copy of a signed lease agreement with the dealer license application whenever first applying for a license for a business location, unless the business property is owned by the dealership entity.

(2) Such lease agreement shall name the dealer applicant as lessee and shall contain the following items:

- (a) Names of parties to the agreement;
- (b) Consideration for lease agreement;
- (c) Description of business premises;
- (d) Terms of lease; and
- (e) Signatures of parties to the agreement.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (1), Register, October, 1984, No. 346, eff. 11-1-84.

**Trans 138.08 Temporary sales locations.** A motor vehicle dealer shall be permitted to display and sell vehicles at a temporary site other than its licensed place of business, providing that:

(1) Each dealer furnishes the department with written notification of the sale at least 10 days in advance.

(2) The duration of each sale shall not exceed 10 days.

(3) A dealer may not participate in more than 6 sales during each licensing (calendar) year.

(4) Each participating dealer shall furnish each consumer a written notice of the 3-day "cooling off" rights pursuant to s. 423.203, Stats., (The Wisconsin Consumer Act).

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (intro.), Register, October, 1984, No. 346, eff. 11-1-84.